

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

IN THE UNITED STATES DISTRICT COURT
FOR THE Eastern DISTRICT OF TEXAS
Beaumont DIVISION

SEP 21 2018

Christian
Steventh Cole #1778549
Plaintiff's Name and ID Number

BY
DEPUTY _____

Cleveland Unit
Place of Confinement

CASE NO. 1:18cv455
(Clerk will assign the number)

v.

State of Texas
Defendant's Name and Address

Texas Board of Pardons and Proles, Individual and Official
Defendant's Name and Address Capacities

MTC, Corporation
Defendant's Name and Address
(DO NOT USE "ET AL.")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

II. PLACE OF PRESENT CONFINEMENT: Cleveland Unit

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted all steps of the institutional grievance procedure?

YES ☒ NO ☐

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff:

Steven Cole #1778544
P.O. Box 1678, Cleveland, Tx. 77328

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: State of Texas

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Created; custom, law, policy to deprive of Liberty

Defendant #2: Board of Pardons and Parole
Individual and professional capacities

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

False accusation, controlled proceedings, arrived at erroneous conclusion of law to justify unreasonable seizure

Defendant #3:

MTC Corporation

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Supported unreasonable seizure for Profit

Defendant #4:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5:

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

C. Has any court ever warned or notified you that sanctions could be imposed? YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): _____
2. Case number: _____
3. Approximate date warning was issued: _____

Executed on: 8-25-18
DATE

Steven Christian Cole
[Signature]
(Signature of Plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 25 day of 8, 2018.
(Day) (month) (year)

Steven Christian Cole
[Signature]
(Signature of Plaintiff)

WARNING: Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.

(1.)

The Texas BPP made an unreasonable seizure when they denied the Applicant's "RMS"; Release to Mandatory Supervision.

Standard of Review

The merits of the decision whether to allow parole to a prisoner is subject to review by a federal court only where the decision is alleged to be so arbitrary and capricious as to be beyond that discretion. *Brown vs. Lundgren*, 528 F.2d 1050 (5th Cir.) 1976.

The Texas Criminal Court of Appeals stated the Discretionary Mandatory Supervision Law in

"Under the Revised Government Code section 508.149;

'An inmate may not be released to Mandatory Supervision if a parole panel determine that;

(1) the inmates accrued good conduct is not an accurate reflection of the inmate's potential for rehabilitation;
and

(2) the inmate's release would endanger the public.

This statute is a "failsafe" mechanism
Pg.

to protect society from the inappropriate release of those who are not truly rehabilitated and who are a danger to the public.

Under the current provision, an inmate who is eligible for release on mandatory Supervision will be released unless the parole panel makes these two specific findings, given the wording of the Statute, an eligible inmate has a vested statutory entitlement to release on mandatory supervision, but it is a defeasible interest one that may be defeated, but only if the parole panel make these findings in its review."

Black's Law dictionary defines

Arbitrary, as;

- (1) Depending on individual discretion or relating to, or involving a determination made without consideration of or regard to facts, circumstances, fixed rules, or procedures.
- (2.) Found on prejudice or preference rather than reason or fact.

The Board's current decision to deny release can be characterized as arbitrary because it rests upon a prejudicial reading of the record and based upon their individual discretion. The Board's decision was a subjective appraisal of the adjudicated
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Factors that created the eligibility and a prejudicial "predictive" opinion. When in fact the Board has no factual basis to conclude the Applicant is a danger to anyone.

Throughout the 32 months on parole the Applicant has turned in 3 resumes, and after interviews has been hired each time. Only the Board who has never met me has concluded I would be a danger to the public. TDCJ currently has the Applicant classified as medium to low risk, re-entry facility. Ironically, the only thing Parole has ~~done~~ is deny me re-entry. The Applicant only lost his SAT II Trusty status due to the Technical violation. He is currently eligible for this line class.

The record does not reflect a predisposition to commit crime. The Applicant has maintained gainful employment since 2002. Worse case scenario the arrests since 2002 can be characterized as "relapse" behavior, not a danger to society.

There is an oil company who is willing to hire the applicant at over \$100,000

per year now. The applicant is able to do pore pressure analysis, geosteering, and well design. The Applicant is an asset to this community. The Parole Officer has consistently got in the way of this and this is unfair.

To do a congruent analogy. IF this Brief were a well, I would set casing at; (1) nature and cause of Accusation, (2) right to know full consequences of the plea. I would build the curve around the difference between the discretion in parole eligibility and mandatory supervision. The grant of "discretion" abrogated the good-time and statutory entitlement to release. The liberty has been abridged by removing an institution of prosecution standard and the necessary "some evidence" standard then denying access to the courts to review the decision. This then extends the sentence beyond the ^{terms} ~~sentence~~ thus doubling the sentence. The BPP did nothing more than control the proceedings to abrogate the interest.

To allow the BPP to sell the Applicant at \$63.00 so MTC can fill bed space is false imprisonment, violations of 4th, 14th,

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Beaumont Division

^{Christian}
Steven Cole #1778549 Case NO. _____
Cleveland Unit

vs.

State of Texas
Texas Board of Pardons and Paroles ^{Individual and} ~~Official~~ capacities
WOTC, corporation

JURY DEMAND

Brief in Support of
Civil Rights Complaint
42 U.S.C. sec. 1983, 1988

For violation of the U.S.C.A.
4th 14th as codified in Texas gov.
Code sec. 508.149, and the
resulting False imprisonment,
malicious prosecution, violation
of the process due and fairness,
impartiality, loss of liberty, life, property.

(with request for Jury Trial)

The States needs collateral consequence to deter ¹⁷⁷⁸⁵⁴⁹ ~~1778549~~
violation of rights for Steven Cole
Prof. It.; sec. 1983 and 1988 In Proper Person